IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 24TH JANUARY 2007 / 4TH MAGHA 1928

W. A. No. 2176 of 2006(C)
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AGAINST THE JUDGEMENT/ORDER IN OP.17361/2001 Dated 29/03/2006

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APPELLANT: PETITIONER IN OP:

K.V. ALIAS, S/O. M.M.VARKEY,
EX.SEPOY (ASC MT INDIAN ARMY) 6617142,
HOUSE NO.33/3419-T, PUTHENPURACKAL HOUSE,
VENNALA, KOCHI-28.

BY ADV. SRI.M.V.THAMBAN
K.V. ANIL KUMAR
THARA THAMBAN
V.K. SATHYANATHAN

RESPONDENTS: RESPONDENTS IN OP:

1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
MINISTRY OF DEFENCE, SOUTH BLOCK, NEW DELHI.

2. THE CHIEF OF THE ARMY STAFF,
ARMY HEADQUARTERS, NEW DELHI.

3. THE CHIEF CONTROLLER OF DEFENCE,
ACCOUNTS (PENSION), ALLAHABAD.

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SR. CGSC for R1 to R3

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 24/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.A. ABDUL GAFOOR & K.R. UDAYABHANU, JJ**

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**W.A. NO. 2176 OF 2006**

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**Dated this the 24th day of January 2007**

**JUDGMENT**

Abdul Gafoor,J

Heard counsel for the petitioner and Adv. Shri. Thomas Mathew Nellimootil for the respondent.

**2.** After about 32 years of discharge from army it was contended that the cause of discharge was a disability and that disability was attributable to the military service. The learned single Judge found that such claim after that much long time could not have been raised at all. Further, how far the same could be attributed to the military service or aggravated by the military service could be proved by either side is also in doubt. Shri. Thomas Mathew Nellimoottil is perfectly right in his submission that his claim at this distance of time, when the relevant records would not have been available, cannot be

entertained. In the above circumstances, there is no merit in the appeal.

The writ appeal is dismissed accordingly.

**K.A. ABDUL GAFOOR, JUDGE**

**K.R. UDAYABHANU, JUDGE.**

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